The opinion in support of the decision being entered today was ***not*** written for publication and is ***not*** binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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***Ex parte*** THEODORE D. WUGOFSKI

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Appeal No. 2001-1135
Application 09/002,733

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ON BRIEF

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Before HAIRSTON, FLEMING, and LEVY, ***Administrative Patent Judges***.

FLEMING, ***Administrative Patent Judge.***

***DECISION ON APPEAL***

This is a decision on appeal from the final rejection of claims 1 through 16, all the claims present in the application.

The present invention is directed to a convergence system that displays channel banners that assume the same form regardless of the source. See page 3 of Appellant's specification.

Independent claim 1 present in the application is reproduced as follows:

1. A computer-readable medium having computer-executable components stored thereon for execution on a suitably equipped computerized system, the components including:

a television services component for receiving a plurality of inputs from a plurality of sources, wherein each input includes a corresponding data set; and

a user interface component for providing a partial-screen graphical user interface in response to the data set of a selected source;

wherein the graphical user interface includes a basic field for display in a consistent form regardless of the selected source, wherein the consistent form comprises a same displayed location and format of the basic field regardless of the selected source.

**References**

The references relied on by the Examiner are as follows:

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| Belmont | 5,819,156 | Oct. 6, 1998 (filed Jan. 14, 1997) |
| LaJoie et al. (LaJoie) | 5,850,218 | Dec. 15, 1998 (filed Feb. 19, 1997) |

**Rejection at Issue**

Claims 1 through 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Belmont in view of LaJoie.

Rather than repeat the arguments of the Appellant or the Examiner, we make reference to the brief and the answer for the respective details thereof.

**OPINION**

With full consideration being given to the subject matter on appeal, the Examiner's rejection and the arguments of Appellant and Examiner, for the reasons stated **infra**, we reverse the Examiner's rejection of claims 1 through 16 under 35 U.S.C. § 103.

Appellant argues that the claimed invention is a multipurpose channel banner or basic fields consistent across multiple sources. See page 5 of Appellant's brief. In particular, Appellant points out that the claims must be interpreted in light of the specification in which the term "source" has a special meaning in that it provides the channel or events to the convergence system. Appellant points to the specification at page 6, lines 10-11. Appellant argues that the specification provides examples of sources as being a radio-frequency receiver, a satellite receiver, a digital receiver and consumer electronic devices such as a videocassette recorder, digital video disc, laser disc, video camera, or the like. Appellant points to the specification at page 6, lines 5 through 11.

Appellant points out that the claims recite "wherein the

consistent form comprises a same displayed location and format for the basic field regardless of the selected source." See page 5 of the brief. Appellant points to Appellant's specification, page 4, lines 12 through 17, which support the claim language to mean that regardless of the selected source information it is displayed in consistent form so that the displayed information is predictably in the same location and the same format no matter what the source. Appellant further points to Appellant's specification at page 10, lines 20 through 28 and page 11, line 1, for support that the claim language means that after the user changes from one source to another, that channel banner maintains consistent layout and form of the displayed fields.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." ***In re Hiniker Co.,*** 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). "In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification." ***In re Bass***, F.3d , USPQ2d , pages 4 and 5 of slip op 02-1046 (Fed. Cir. Dec. 2002). Citing ***In re Yamamoto***, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir.

1984). Words in a claim are to be given their ordinary and accustomed meanings unless the inventor chooses to be his own lexicographer in the specification. ***In re Bass***, slip op at 5, citing **Lantech, Inc. v. Keip Mach. Co.**, 32 F.3d 542, 31 USPQ2d 1666, 1670 (Fed. Cir. 1994).

We note that independent claim 1 recites

> wherein the graphical user interface includes a basic field for display in a consistent form regardless of the selected source, wherein the consistent form comprises a same displayed location and format of the basic field regardless of the selected source.

We note that independent claim 7 recites similar language.

Finally, we note that independent claim 11 recites

> channel banner includes a plurality of basic fields updatable with the data set wherein the basic fields retain a consistent form regardless of the selected input component, wherein the consistent form comprises a same displayed location and format of the basic fields regardless of the selected input component.

We find that the specification defines basic fields as those fields occurring across the various sources. In particular, the channel banner 54 includes a plurality of fields such as date/time field 58, current event field 60, and current channel field 61. Such fields are presented in the embodiment as basic fields 56 in that they contain information applicable to most, if not all, of the source components 21. See Appellant's

specification at page 10, lines 1 through 4, and also see Appellant's brief, page 6. Thus we find that the claims require that after the user changes from one source or input component to another, the graphical user interface or channel banner remains consistent in layout and form of the displayed fields. Also, the displayed information is predicably in the same location and in the same format.

Appellant argues that Belmont and LaJoie, alone or in combination, do not teach or suggest the plurality of fields retaining a consistent form regardless of the selected source, where the consistent form comprises a same displayed location and format of the plurality of fields regardless of the selected source. See pages 7 and 8, of Appellant's brief.

The Examiner responds to Appellant's argument by stating that the LaJoie system discloses a program information banner to be displayed whenever the user changes channels to help the user identify programs being presented on each channel. The Examiner points to column 5, lines 15 through 22 and column 6, lines 47 through 65.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a ***prima facie*** case of obviousness. ***In re Oetiker***, 977 F.2d 1443, 1445, 24 USPQ 1443,

1444 (Fed. Cir. 1992). ***See also In re Piasecki***, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. ***In re Fine***, 87 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellant. ***Oetiker,*** 977 F.2d at 1445, 24 USPQ at 1444. ***See also Piasecki,*** 745 F.2d at 1472, 223 USPQ at 788.

The factual inquiry whether to combine references under 35 U.S.C. § 103 must "be based on objective evidence of record." ***In re Lee,*** 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). This "showing must be clear and particular." ***In re Dembiczak,*** 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). "In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and combine them to render the claimed invention obvious." ***Lee,*** 277 F.3d at 1343, 61 USPQ2d at 1434 quoting ***In re Fritch***, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). ***See also Dembiczak***, 175 F.3d at 999, 50 USPQ2d at 1617

quoting ***In re Rouffet***, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998). "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." ***Lee***, 277 F.3d at 1344, 61 USPQ2d at 1434. With these principles in mind, we commence review of the pertinent evidence and arguments of Appellant and Examiner.

Upon our review of LaJoie we find that indeed LaJoie does teach in column 5, lines 10 through 22, that a comprehensive channel navigation would enable the cables subscriber to more easily navigate through the abundance of programming and services that are available wherein a program information banner may be displayed whenever the user changes channels. Also we find that LaJoie teaches in column 6, lines 47 through 68 that LaJoie's invention includes a highlighted channel banner.

However, we fail to find that LaJoie teaches that the highlighted channel banner includes basic field for displaying in a consistent form regardless of selected sources, wherein the selected form comprises a same displayed location and format of a basic field regardless of the selected source. In particular,

LaJoie teaches that figure 14 is an illustrative screen display of a general settings menu of a set-top terminal of one embodiment of the present invention. See column 8, lines 59 through 61 of LaJoie. LaJoie further discloses that figure 14 illustrates all timer setting of the general settings menu. See column 22, lines 47 through 68 of LaJoie. LaJoie then teaches another screen display in which the fields are completely different in figure 20. Figure 20 is an illustrative screen display of the theme mode of an interactive program guide of a set-top terminal. See column 9, lines 8 through 10 and column 26, lines 48 through 68, of LaJoie. Finally, LaJoie teaches a completely different screen with completely different field layouts in figure 29. Although LaJoie teaches that figure 29 is a screen display of an impulse pay-per-view. See column 9, lines 21 through 24 and column 30, line 54 through column 32, line 7, of LaJoie. Therefore, we fail to find that the Examiner has provided substantial evidence that LaJoie teaches or suggests a basic field for display in consistent form regardless of the selected source, wherein the consistent form comprises a same displayed location and format of the basic field regardless of the selected source as set forth in Appellant's claims.

In view of the foregoing, we will not sustain the Examiner's rejection of claims 1 through 16 under 35 U.S. C. § 103.

**REVERSED**

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|---|---|---|
| KENNETH W. HAIRSTON<br>Administrative Patent Judge | ) | |
| MICHAEL R. FLEMING<br>Administrative Patent Judge | ) | BOARD OF PATENT<br>APPEALS AND<br>INTERFERENCES |
| STUART S. LEVY<br>Administrative Patent Judge | ) | |

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